IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

WP(C).No. 29457 of 2007(F)

PETITIONER:

O.S.GIREESH, CHIEF PROMOTER,
MALAYALAM CINE TECHNICIANS CO-OPERATIVE SOCIETY LTD NO.4456, KOCHI-25, (NOW RESIDING AT'KARTHIKA', STUDIO ROAD, NEMOM P.O.,THIRUVANANTHAPURAM-20).

BY ADV. SRI.P.P.JACOB
SRI.N.T.SATHYAVAN

RESPONDENTS:

1. **THE REGISTRAR OF CO-OPERATIVE SOCIETIES, TRIVANDRUM.**
2. **THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), ERNAKULAM.**
3. **THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (G),(PLANNING),RETURNING OFFICER, MALAYALAM CINE TECHNICIANS CO-OPERATIVE SOCIETY LTD.NO.4456, 35/2225, BAKER HOUSE, PALLINADA, THAMMANAM ROAD, PALARIVATTOM, KOCHI-25.**
4. **MALAYALAM CINE TECHNICIANS CO-OPERATIVE SOCIETY LTD.NO. 4456, 35/2225, BAKER HOUSE, PALLINADA, THAMMANAM ROAD, PALARIVATTOM, KOCHI-25, REP.BY ITS HONORARY SECRETARY.**
5. **SRI.VINAYAN, MALAYALAM CINE TECHNICIANS CO-OPERATIVE SOCIETY LTD.NO.4456, 35/2225, BAKER HOUSE, PALLINADA, THAMMANAM ROAD, PALARIVATTOM, KOCHI-25.**

BY ADV. SRI.P.K.BALAKRISHNAN NAIR
GOVT. PLEADER SRI.P.K.RAVIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P.C.NO.29457/07

PETITIONER'S EXHIBITS

EXT.P1	**TRUE PHOTOCOPY OF THE PROCEEDINGS OF THE GENERAL BODY MEETING OF THE PROMOTING MEMBERS DTD. 7-1-07**
EXT.P2	**TRUE PHOTOCOPY OF THE ORDER ISSUED BY THE SECOND RESPONDENT TO COLLECT SHARE CAPITAL DTD. 24-5-07**
EXT.P3	**TRUE PHOTOCOPY OF THE REGISTRATION CERTIFICATE OF THE FOURTH RESPONDENT DTD. 2-4-07**
EXT.P4	**TRUE PHOTOCOPY OF THE NOTICE OF GENERAL BODY ISSUED BY PETITIONER DTD.27-4-07**
EXT.P5	**TRUE PHOTOCOPY OF THE REMINDER ISSUED BY THE PETITIONER TO THE FIRST RESPONDENT DTD. 22-9-07**
EXT.P6	**TRUE PHOTOCOPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DTD. 29-09-07**
EXT.P7	**TRUE PHOTOCOPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE FIRST RESPONDENT DTD. 29-9-07**
EXT.P8	**TRUE PHOTOCOPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE FIRST RESPONDENT DTD. 29-09-07**
EXT.P9	**TRUE PHOTOCOPY OF THE PROCEEDINGS ISSUED BY THE FIRST RESPONDENT DTD. 19-09-07**

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

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W.P.(c).No.29457 OF 2007

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Dated this the 23rd day of October, 2007

JUDGMENT

Petitioner has approached this court on the following brief allegations.

Petitioner is the Chief Promoter of the Co-operative Society. By Ext.P1 petitioner along with 29 persons assembled together and took decisions consistent with the provisions of the Kerala Co-operative Societies Act and Rules in the General Body regarding the formation of the society on 07/01/2007. By Ext.P3, the first respondent granted registration on completion of the formalities. Ext.P3 is dated 02/04/2007. Ext.P2 is produced to show that the amount was permitted to be collected towards share capital. Ext.P4 is a notice issued to convene the general body meeting on 27/04/2007. Petitioner's further case is that due to the intervention of the 5th respondent and his associates , the meeting could not be held and it was disturbed and dissolved. Thereafter, it is stated that records were created to the effect that meeting is held and fifth respondent is elected as President.

According to the petitioner, he took all possible steps to convene proper general body meeting as prescribed by law. Ext.P5 is the request of the petitioner seeking necessary action. Ext.P6 is the reminder. According to the petitioner the irregularly functioned committee in the leadership of the 5th respondent has issued membership to several persons without any authority. It is learnt that membership membership is issued illegally to 180 persons over and above the 29 promoting members including the petitioner. It is stated that such membership is illegal. Petitioner filed Ext.P7 representation before the third respondent to remove the illegally enrolled persons from the voters list. Petitioner thereupon approached respondents 1 and 2 by Ext.P8 dated 29/09/2007 for getting the copy of the records and proceedings appointing the returning officer issued by the first respondent.

2. Petitioner seeks a declaration that election proceedings with the present voters list is illegal. Ext.P10 is sought to be quashed. A mandamus is sought to remove all members incorporated as members of the society over and above the promoting members from the electoral roll of the society being used for the conduct of the election to the managing committee. A direction is also sought to consider Exts.P8 and P9.

3. Counter affidavit is filed by respondents 4 and 5. Paragraphs 2, 3 and 4 are extracted hereunder:

> " The petitioner and 29 others assembled together on 07-01-2007 for the formation of the society and collected the amount towards the share capital as per the order issued by the first respondent. The promoters collected Rs. 1 lakh and deposited the same towards the Registration fee. The Registration Certificate was issued on 2-4-2007. The petitioner as the chief Promoter of the Committee, convened a General body meeting on 27-04-2007 in the White Fort Hotel, Ernakulam and 23 promoters, out of 29, attended the meeting. The meeting decided to grant membership to the 29 promoters including the petitioner. The petitioner, 4th and 5th respondents were present in the meeting. The General Body held on 27-05-2007 elected the Managing Committee, the 5th respondent as the President; Shri.M.Renjith as the Honourary Secretary and Shri.Shaji Kailas as the Vice President. The petitioner was also elected as the member of the Governing Committee. The petitioner who attended the meeting held on 27-04-2007 sent Ext.P5 representation on 4-09-2007 after a period of about 5 months raising untenable objections.
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> The Committee vide resolution dated 2-7-07 decided to issue 'A' Class membership to 66

members B class to 1 and 'C' class membership to 66 persons. The petitioner was also present in those meetings. The meeting vide resolution dated 10-08-2007 resolved to issue 'A' class membership to 15 persons and C class membership to 18 persons.

The Committee vide resolution No.17 dated 16-05-2007 requested the Registrar to extend the period and accordingly the Committee held on 10-08-2007 vide resolution No.36, decided to conduct election to the Governing body as per the provisions in the Act and Rules. The first respondent appointed the Returning Officer to conduct the election on 21-10-2007. The petitioner lodged complaint before the Returning Officer alleging illegal issuance of membership to the persons and the Returning Officer removed two 'A' class members and 13 'C' class members from the voter's list. The final voter's list is published excluding the names of the voters as directed by the Returning Officer."

4. There is also reference to some misappropriation. I heard learned counsel for the petitioner, learned counsel for respondents 4 and 5 and also the learned Government Pleader. It is not in dispute that the election was held on 21/10/2007. Learned counsel for respondents 4 and 5 would point out that the

elected office bearers assumed charge. It is the case of the petitioner that there is no committee in the eye of law which could issue membership to the members over and above the promoting members. I note that none of the elected candidates are before this court. I also feel that petitioner has an alternate remedy under Section 69 of the Co-operative Societies Act. In such circumstances, I feel that petitioner is to be relegated to the pursuit of the remedy available to him under Section 69. The writ petition is disposed of relegating the petitioner to pursue the remedy available to him under Section 69.

(K.M.JOSEPH, JUDGE)

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